

STATE OF HAWAII  
DEPARTMENT OF LAND AND NATURAL RESOURCES  
Land Division  
Honolulu, Hawaii 96813

September 27, 2013

Board of Land and Natural Resources  
State of Hawaii  
Honolulu, Hawaii

PSF: 13HD-118

Hawaii

**Consent to Lease Term Extension Pursuant to Act 207, Session Laws of Hawaii 2011, General Lease No. S-3603, Jieyu Shepard, Lessee; Amendment of Terms and Conditions Regarding Allowed Use, Assignment and Sublease Provisions for General Lease No. S-3603; Lot 41, Kanoelehua Industrial Lots, Waiakea, South Hilo, Hawaii, Tax Map Key: (3) 2-2-049:015 & 016.**

APPLICANT AND REQUEST:

Jieyu Shepard, lessee, sole proprietor.

Improvements to leasehold property financed by lessee pursuant to Act 207, Session Laws of Hawaii 2011 and Section 171-36, Hawaii Revised Statutes in an amount of approximately \$44,000.00.

In order for the Lessee to amortize this expenditure, Lessee is requesting an extension of General Lease No. S-3603 of 10 years, commencing on January 16, 2016 and expiring on January 15, 2026 for an aggregate term of 65 years (initial 55 year term plus the 10 year extension).

LEGAL REFERENCE:

Sections 171-36, Hawaii Revised Statutes, as amended.  
Act 207, Session Laws of Hawaii 2011

LOCATION:

Portion of Government lands of Kanoelehua Industrial Lots situated at Waiakea, South Hilo, Hawaii, identified by Tax Map Key: (3) 2-2-049:015 & 016, as shown on the attached map labeled Exhibit A.

**AREA:**

12,749 square feet, more or less.

**TRUST LAND STATUS:**

Section 5(b) lands of the Hawaii Admission Act  
DHHL 30% entitlement lands pursuant to the Hawaii State Constitution: NO

**CHARACTER OF USE:**

Fountain supplies purposes (current character of use in lease).

**TERM OF LEASE:**

Original term of 55 years, commencing on January 16, 1961 and expiring on January 15, 2016.

Requested extension of 10 years commencing on January 16, 2016 and expiring on January 15, 2026.

**ANNUAL RENTAL:**

Current rent is \$13,740.00, due in semi-annual installments of \$6,870.00 on January 16<sup>th</sup> and July 16<sup>th</sup> of each year.

**RENTAL REOPENINGS:**

Rental reopenings in the original term were at the end of the 20<sup>th</sup>, 30<sup>th</sup>, 40<sup>th</sup> and 50<sup>th</sup> years of the term. The last rental reopening occurred on January 16, 2011. However, the request before the Board expands the allowed uses under the lease from fountain supplies to any uses allowed by current zoning. Therefore, staff is recommending the rent for the extended term be determined by an immediate appraisal that will cover the period from the date of this Board action through January 15, 2026. The appraiser shall be selected by the State and paid for by Lessee. As a condition of the Board's discretionary approval of the lease extension, the appraised rent for the extension period will be determinative and not subject to arbitration.

**PROPOSED IMPROVEMENTS:**

In 2008, the lessee made substantial improvements to the property including; exterior painting, laminate flooring in showroom, drywall interior, acoustical ceiling tiles, central air conditioning in showroom area, upgraded restrooms, eight foot glass entry door and three storage areas.

The lessee proposes to replace leaking roof, including the Z purlins on the north side of the building, gable flashing and gutters. The roof ventilators will be repaired or replaced. The cost of the roof improvements is estimated to be \$44,000.00

**DCCA VERIFICATION:**

Applicant is sole a proprietor and therefore is not required to register with DCCA.

**APPLICANT REQUIREMENTS:**

Applicant shall be required to pay for an immediate appraisal of the rent payable during the period from the date of this Board action to January 15, 2026. The appraisal shall not be subject to arbitration.

Applicant will be required to provide receipts for payment of proposed improvements to Land Division staff no later than June 30, 2014.

**REMARKS:**

General Lease No. S-3603 (GL S-3603) was initially issued to Harders Company, Limited pursuant to Act 4, First Special Session Laws of Hawaii 1960, which provided for the direct issuance of leases to natural disaster victims who were affected by the 1960 tsunami that struck Hilo and other areas of the State. The lease was for a term of 55 years commencing on January 16, 1961 and expiring January 15, 2016.

At its meeting of May 24, 1985, under agenda items F-1-e and F-1-f, the Board of Land and Natural Resources (the Board) approved the assignments of GL S-3603 from Harders Company, Limited “assignor” to Liquid Carbonic Corporation “assignee” and from Liquid Carbonic Corporation “assignor” to L&P Hawaiian Enterprises, Inc. “assignee” respectively.

At its meeting of October 14, 1994, under agenda item F-1-a, the Board approved the assignments of GL S-3603 from L&P Hawaiian enterprises, Inc. “assignor” to John P. Ridge, Trustee of the L&P Trust dated June 18, 1993 “assignee” and from John P. Ridge, Trustee of the L&P Trust dated June 18, 1993 “assignor” to Arthur K.K. Wong and Cynthia L. Wong, husband and wife, as tenants by the entirety “assignee”.

At its meeting of May 9, 2008, under agenda item D-1, the Board approved the assignment of GL S-3603 from Arthur K.K. Wong and Cynthia L. Wong “assignor” to Jieyu Shepard “assignee”.

The current 55-year lease is set to expire on January 15, 2016 and the lessee is requesting a 10 year extension pursuant to Act 207, Session Laws of Hawaii 2011<sup>1</sup> to amortize the cost of planned improvements to the property, including roof replacement at a cost in excess of \$44,000.00. An appraisal evaluation performed by a certified appraiser (Exhibit B) has determined that the economic life of the proposed improvements will exceed the twelve-plus year period necessary to amortize the improvements.

The subject property is located in an area served by aging, but well maintained infrastructure. The area also includes numerous other DLNR properties currently encumbered by long-term leases, some which are scheduled to expire in 2016 and others in 2025 or later.

Additionally, both the Appraiser and Staff have noted that the Lessee has made substantial repairs and improvements to the premises since the Lessee assumed the lease in 2008. The warehouse structures are well maintained and are in good condition. Such maintenance demonstrates the Lessee's continuing efforts to keep the building in good order and repair.

The Lessee is in compliance with the terms and conditions of the lease. The Lessee is current with rent, insurance and performance bond. A recent inspection showed improvements to the property and existing structures.

Because the lease was issued by direct negotiation instead of public auction, the Board has authority to amend the lease to change the character of use provision and make other amendments.

One of the provisions of the lease is that the lessee;

“use the leased land for the first five (5) years of the term of the lease for the same business use or undertaking in which the Lessee was engaged at the time of the natural disaster or a use designated by the Board; provided, however, that the Lessee may devote or place said demised premises to a use or uses other than fountain supplies in character, with the prior written consent of the Board, which consent shall not be unreasonably or arbitrarily withheld...”

A change in the character of use from “fountain supplies” to “uses allowed under the County of Hawaii zoning code, ML-20, limited industrial”, would benefit the State by allowing a wider range of uses and thereby making the property more appealing/valuable for future leasing.<sup>2</sup>

---

<sup>1</sup> Act 207, Session Laws of Hawaii 2011 amends Section 171-36(b) of the Hawaii Revised Statutes by allowing the Lessee to: Extend or modify the fixed rental period of the lease: provided that the aggregate of the initial term and any extension granted shall not exceed sixty-five years.

<sup>2</sup> Although the use restriction by its terms applied only to the first five years of the lease, it is not clear what uses were intended to be allowed after the first five years. Accordingly staff is recommending the amendment of this provision for the sake of clarity.

Also, the lease contains language which allows the Lessee to sublease portions of the property without Board approval, consent or knowledge. Staff believes the better practice is to require prior Board consent for all subleases. Therefore, Staff is recommending the assignment/sublease provision in the lease be amended to reflect the current language for assignments and subleases.

No agency comments were solicited on the request because it involves a lease extension; not a new disposition.

Staff is recommending that the rent payable for the remaining term of the lease, with extension, be determined by immediate appraisal. The appraiser will be selected by the State but the appraisal fee will be paid by Applicant, and the appraised rent will not be subject to arbitration.

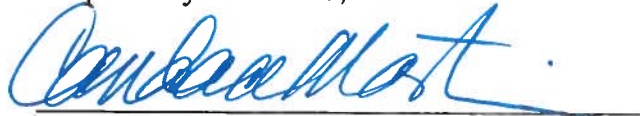
#### RECOMMENDATION:

That the Board, subject to the Applicant fulfilling the Applicant requirement listed above:

1. Authorize the extension of General Lease No. S-3603 under the terms and conditions cited above, which are by this reference incorporated herein and further subject to the following:
  - A. The standard terms and conditions of the most current lease extension form, as may be amended from time to time;
  - B. Jieyu Shepard shall complete the warehouse roof renovations as proposed and submit to Land Division staff, receipts verifying payment for the improvements by June 30, 2014, or be subject to cancellation.
  - C. Review and approval by the Department of the Attorney General; and
  - D. Such other conditions as may be prescribed by the Chairperson which are in the best interests of the State.

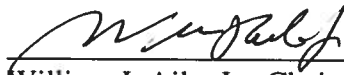
2. Authorize the amendment of General Lease No. S-3603 to change the character of use from “fountain supplies” to “uses allowed under the current County of Hawaii Zoning Code, ML-20, limited industrial”, and to update the lease provision titled “Assignments, etc.” (section 22 of the lease) with the current language used by the Department of the Attorney General for assignment and subleasing provisions. The amendment of the lease shall further be subject to the following:
  - A. The standard terms and conditions of the most current consent to change in character of use and amendment of lease document forms, as may be amended from time to time;
  - B. Review and approval by the Department of the attorney general; and
  - C. Such other terms and conditions as may be prescribed by the Chairperson to best serve the interests of the State.

Respectfully Submitted,



Candace Martin  
Land Agent

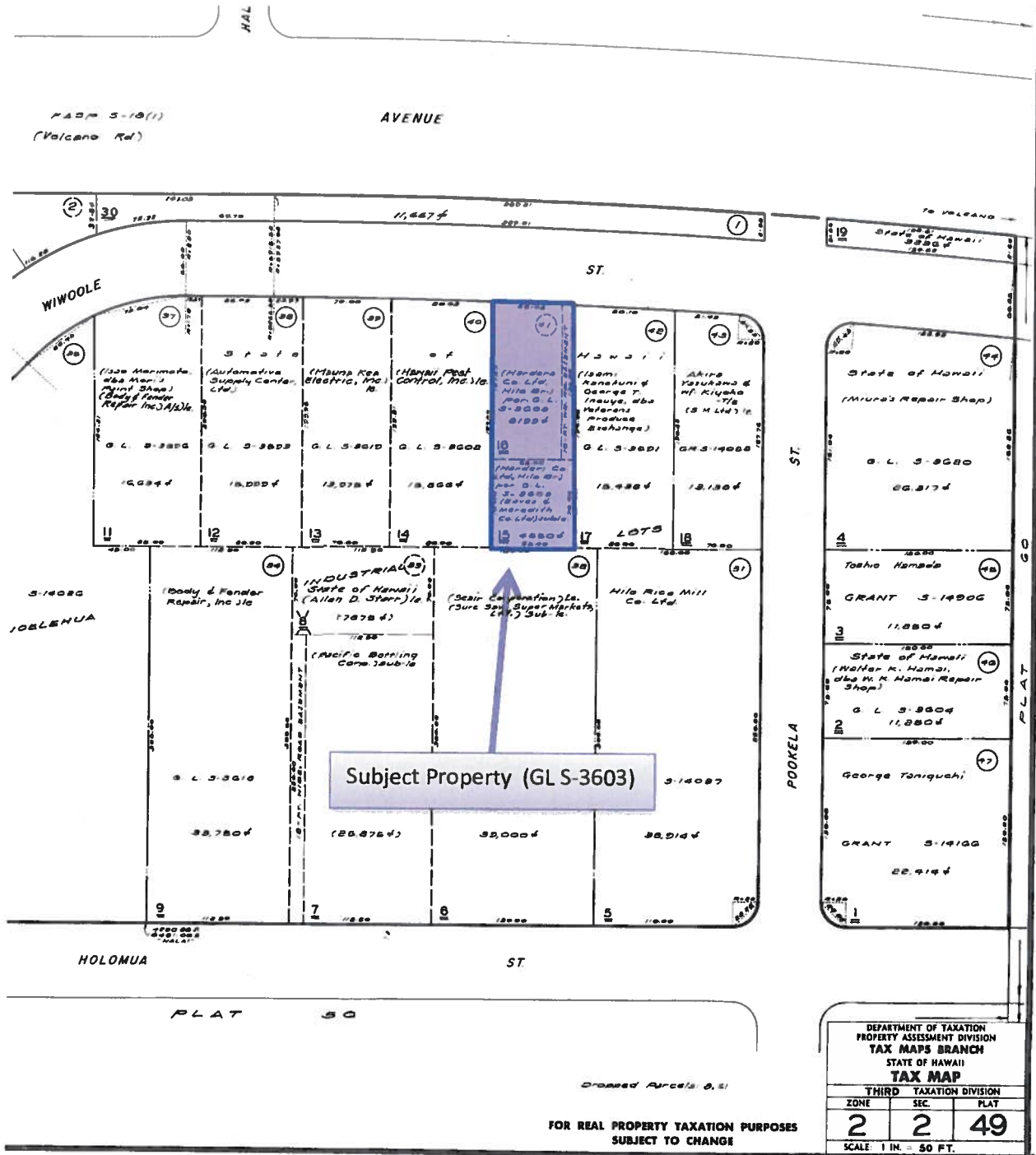
APPROVED FOR SUBMITTAL:



William J. Aila, Jr., Chairperson



# EXHIBIT A



## EXHIBIT B

Bloom Appraisers Inc.  
Serving Hawaii Since 1973  
120 Pauahi Street Suite 205, Hilo Hawaii 96270  
Telephone 808-961-3704  
Fax-808-961-4600

April 22, 2013

State of Hawaii  
Department of Land and Natural Resources  
Land Division  
Attention: Mr. Gordon Heit  
75 Aupuni Street  
Suite 204  
Hilo, Hawaii 96720

RE: Consulting Letter regarding the Economic life of the existing improvements of the Leasehold property located 64 @ Wiwoole Street Hilo, Hawaii 96720. Tax Map Key for the subject property is (3) 2-2-049-016. Application is attached for extension of the existing State Lease S-3603, which expires January 16, 2016, for 10 additional years. Lessee is Jieyu Shepard.

Dear Mr. Heit Land Agent

Per Ms. Jieyu Shepard request, attached is my consulting letter regarding the economic life of the existing improvements with a new roof attached to the above referenced property. Subject property was built in 1961 and consists of 4,080 square feet. It should be noted the above referenced property features a show room consisting of 1680 square feet that was modernized in 2008 with laminate flooring, drywall interior, acoustical ceiling insulation, the ceiling height is 12 feet. The entry to the show room features an eight foot glass door. Central wall air conditioning was added in 2008. The bathrooms were modernized with two water closets and two sinks. In addition three storage areas were added.

Warehouse consists of 2,400 square feet with built in shelves. The exterior of the building was painted in 2008. The interior of the warehouse was painted.

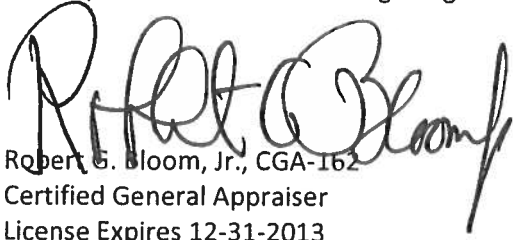
Subject property was built in 1961, and in my opinion, when the new roof is added the subject's life expectancy will exceed 40 years. I have attached interior photo images showing the existing improvements that have been completed since 2008.

Attached to this consulting letter is the following:  
Schematic  
Photo images of the interior and exterior  
Proposal from Anvil, Inc.



Page 2

Thank you for a most interesting assignment and please contact me if I can be of further assistance.

A handwritten signature in black ink, appearing to read "Robert G. Bloom, Jr.", written in a cursive style.

Robert G. Bloom, Jr., CGA-162  
Certified General Appraiser  
License Expires 12-31-2013



# ANVIL, INC. PROPOSAL

Lic. No. 17141  
829-G Leilani Street  
Hilo, Hawaii 96720  
Ph. /Fax 808-935-2432

Date: January 30, 2013

Proposal Submitted to: IRIS SHEPPARD

Phone: \_\_\_\_\_  
Note: Net 30 days if not accepted to withdraw.

Job Name: KITCHEN BEYOND Job Location: HILO, HAWAII

5 - 20" VENT EXHAUST 120' - RIDGE CAPS 110' - GABLE FLASHING

JOB DESCRIPTION: FABRICATE AND INSTALL ALL.

We Propose hereby to furnish material and labor-complete in accordance with above specifications, for the sum of: SEVEN THOUSAND EIGHT HUNDRED TEN & NO /

\*\*\$7,810.00\*\* PAYMENT TO BE MADE AS FOLLOWS: 10 Days after Completion of project

All material is guaranteed to be as specified. All work to be completed in a workmanlike manner according to standard practices. Any alteration or deviation from above specifications involving extra costs will be executed only upon written orders, and will become an extra charge over and above the estimate. All agreements contingent upon strikes, accidents or delays is beyond our control. Owner to cover fire, tornado and other necessary insurance. Our workers are fully covered by Workman's Compensation Ins.

Authorized Signature: [Handwritten Signature]

The above prices, specifications and conditions are satisfactory and are hereby accepted. You are authorized to do the work as specified. Payment will be made as outlined above.

Signature: \_\_\_\_\_ Date: \_\_\_\_\_

# ULTIMATE ROOFING, INC.

License No. C 31002  
519 Manono St. Hilo, HI 96720  
Office: (808) 934 9505  
Fax: (808) 934 9565  
ultimateroofinginc@yahoo.com

## PROPOSAL / CONTRACT

Date:	1/31/2013		
Customer:	Kitchen Beyond	Work#	
Mailing Address:	64 Wiwoole St.	Cellular#	
City, State, & Zip code:	Hilo, Hawaii 96720	Home#	
E-mail:		Fax#	935-2177

Project Location:	64 Wiwoole St. Hilo Hawaii 96720
-------------------	----------------------------------

Contractor hereby submits the following specifications:

### Material & Labor for reroof Pattern 9 24 Gauge Metal Roof -

- Remove existing roofing ridge cap, ventilators, gutters & gable flashing
- Remove existing clear skylights and install Sunsky P9 4 Rib white (6 each)
- Replace Z perlings on North side of Bldg. 25' and install new Z perlings
- Install P 9 24 gauge metal roofing, ridge cap, ventilators, gutters & gable flashing
- Color to be determined by owner
- Fasteners to be bi-metal stainless pre-finished ultra-screws
- Install peel & seal tape under ridge
- Clean ground area and haul away debris from premises

*Unforeseen perlings will be charged as additional work, time & material.*

As stated in the above specifications, we propose to furnish material and labor for the sum of: Thirty Eight Thousand Nine Hundred Fourteen Dollars (\$ 38,914.00)

Payment schedules are as follows:

Down payment of Twenty Three Thousand Four Hundred Thirty Eight Dollars (\$ 23,438.00) is due upon acceptance of this proposal and the remaining balance of Fifteen Thousand Four Hundred Seventy Six Dollars (\$ 15,476.00) is due upon job completion.

Any alteration or deviation from the above specifications involving extra costs will be executed only upon a written order and will become an extra charge over and above the proposed estimate. All agreements are subject to any strikes, accidents, or delays beyond the contractor's control.

**WE ARE NOW ACCEPTING VISA AND MASTERCARD!**

**ULTIMATE ROOFING, INC.**

License No. C-31002  
519 Manono St. Hilo, HI 96720  
Office: (808) 934-9505  
Fax: (808) 934-9565  
ultimateroofinginc@gmail.com

Submitted by: Marcelo Mandaquit  
Marcelo Mandaquit, President

Date: 1-31-13

This proposal may be withdrawn if not accepted within 30 days.

**Acceptance of Proposal**

As stated in the above specifications, costs, materials, and specifications are satisfactory and are hereby accepted. I authorize the contractor to perform the work as specified and payments will be made as summarized above.

Customer Signature: \_\_\_\_\_ Date: \_\_\_\_\_

Print Name: \_\_\_\_\_

Please retain a copy for your records and return a signed copy along with the down payment to Ultimate Roofing, Inc. Thank you

There is a FIVE (5) YEAR GUARANTEE ON OUR "WORKMANSHIP" at areas re-roofed which begins from the date of job completion. There is also a THIRTY-FIVE (35) YEAR LIMITED WARRANTY on coating of roof panels from HPM. Any problems due to maintenance of vent pipe penetrations or any type of roof penetrations, solar panels, leak problems and/or damages caused by any sort of roof penetration are not covered by this guarantee after re-roofing completion. Warranty is voided when any type of roof work is performed by others after the re-roof is completed.

Down Payment is non refundable.

The information contained on this proposal is intended only for the sole use of the identified recipient. Any unauthorized review, use, copying, disclosure, or distribution is prohibited.

*QUALITY & CUSTOMER SATISFACTION ARE OUR #1 PRIORITY*